

SUMMARY OF PROPOSED COMMITTEE DRAFT:

Bill 86 (2006) - Interim Development Controls Along the Alignment for the Honolulu High-Capacity Transit Corridor Project

PROPOSED CD1:

- A. Reduces the affected area to lots or parcels any portion of which is located within one-fourth mile on either side of the alignment.
- B. Amends the termination of the interim development controls to the first to occur of:
 - 1. Three months (instead of twelve months) from the enactment of the IDC ordinance; or
 - 2. The enactment of one of the following to regulate land uses in the IDC area:
 - a. A transit-oriented development (TOD) zoning ordinance; or
 - b. An interim zoning ordinance establishing interim controls until the enactment of a TOD ordinance.
- C. Removes the prohibition against the acceptance, processing or approval of grading permits. Allows any applications for building permits, zone changes, subdivision or consolidation of land, cluster housing, or planned development housing **that were accepted prior to the effective date of the IDC ordinance** to continue to be processed and approved. Allows new building permit applications for lands in the IDC area to be accepted and processed, but not approved.
- D. Adds the following to the exemptions from the building permit prohibition:
 - 1. For any project of the federal or state government or on land under the jurisdiction of the Hawaii Community Development Authority or the Department of Hawaiian Home Lands; and
 - 2. To construct or improve basic infrastructure such as roads, sewers, and drainage facilities.
- E. Makes technical and nonsubstantive amendments.



A BILL FOR AN ORDINANCE

REGULATING FOR AN INTERIM PERIOD DEVELOPMENT ON LOTS ALONG THE ALIGNMENT SELECTED BY THE COUNCIL AS THE LOCALLY PREFERRED ALTERNATIVE FOR THE HONOLULU HIGH-CAPACITY TRANSIT CORRIDOR PROJECT IN THE CITY AND COUNTY OF HONOLULU.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Findings and Purpose.

The council finds that Honolulu is on the verge of initiating a major transportation infrastructure project that has the potential to fundamentally reshape the future landscape of Oahu. The council has received the Alternatives Analysis Report for the Honolulu High-Capacity Transit Corridor Project, dated November 1, 2006, and is poised to select the mode and alignment for the Locally Preferred Alternative ("LPA") for the Project by December 31, 2006.

If the council selects a fixed guideway system as the mode for the LPA, appropriate transit-oriented development ("TOD") land use regulations along the alignment and around the transit stations will be crucial. Development of non-transit-supportive land uses in these areas could reduce potential ridership and preclude more intensive development opportunities which would take fuller advantage of the transit resource.

The mass transit project, when coupled with well-defined processes and regulations for TOD, will transform the current character of urban-zoned lands in proximity to the alignment. This will help stem the current pattern of urban sprawl across the city's agricultural and open space lands; encourage the development of livable, walkable communities; and increase transit ridership, thereby promoting the economic, social, and environmental well-being of the city.

With the potential for such a significant and positive change in development patterns, it is crucial that the city act now to ensure that premature or inappropriate development in close proximity to the mass transit alignment does not foreclose the potential for TOD.

The council, therefore, finds that the public health and safety require that Interim Development Controls be adopted prohibiting development along the transit alignment selected as the LPA on Oahu for a temporary period of time until permanent TOD controls can be adopted. The council deems the adoption of this ordinance under its general police and home rule powers to be in the best interest of the community and its health, safety, morals, and general welfare.



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This ordinance shall take effect only if the council selects a fixed guideway system as the mode for the LPA.

SECTION 2. Affected Area.

There is hereby established the Fixed Guideway Transit Alignment Interim Development Control Area ("Transit IDCA"), which shall consist of all lots or parcels in the City and County of Honolulu any portion of which is located within one-fourth (1/4) mile on either side of the alignment selected by the council as the LPA for the Honolulu High-Capacity Transit Corridor ("HHCTC") Project.

SECTION 3. Applicability.

A. From the effective date of this ordinance until the first to occur of:

1. Three months from the enactment of this ordinance; or
2. The enactment of one of the following to regulate land uses along the transit alignment and adjacent to transit stations or transit centers:
 - a. A TOD zoning ordinance; or
 - b. An interim zoning ordinance establishing interim controls until the enactment of a TOD zoning ordinance, in order to preclude inappropriate development;

with the council expressly specifying that the enactment satisfies this contingency;

no new applications for building permits shall be approved, and no new applications for zone changes, subdivision or consolidation of land, cluster housing, or planned development housing shall be accepted or processed, for lands within the Transit IDCA, except as specifically stated herein. This subsection shall not be construed to preclude the processing and approval of applications for building permits, zone changes, subdivision or consolidation of land, cluster housing, or planned development housing accepted prior to the effective date of this ordinance, or the acceptance or processing (but not the approval) of new applications for building permits submitted after the effective date of this ordinance.



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- B. Section 3.A shall not apply to the issuance of building permits in the following instances, provided that the application otherwise qualifies under all other applicable laws, rules, and regulations:
1. For any project of the federal or state government or on land under the jurisdiction of the Hawaii Community Development Authority or the Department of Hawaiian Home Lands;
 2. To construct or improve basic infrastructure such as roads, sewers, and drainage facilities;
 3. To perform work permitted under Section 18-3.1, Revised Ordinances of Honolulu 1990, as amended, to make an existing building or structure conform to or comply with applicable laws or rules and regulations;
 4. To perform maintenance and repair to an existing structure or building;
 5. To permit improvements to an existing structure or building, provided that neither the building area nor building volume shall be increased; and
 6. To make improvements within the Transit IDCA that are determined by the department of facility maintenance and the department of planning and permitting to be necessary for the public health and safety.
- C. Nothing contained in this ordinance shall be deemed to affect:
1. Any permit or approval that has been lawfully granted and is in effect on the effective date of this ordinance; or
 2. The granting, issuance and/or approval of permits or zone change, subdivision or consolidation approvals within an area not designated as part of the Transit IDCA.
- D. If the HHCTC Project is implemented in geographic phases, the council may, by appropriate amendment to this ordinance, release a portion or portions of the Transit IDCA from this ordinance after an appropriate TOD ordinance or interim zoning ordinance is enacted to regulate land uses in that geographic phase.

SECTION 4. Penalties.

Any person, firm, entity, or corporation constructing, erecting, enlarging, or altering structurally any building, roadway or structure, or performing grading work or



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subdividing or consolidating land in violation of the provisions of this ordinance shall be subject to the penalties and enforcement procedures:

- A. For subdivision or consolidation in violation of this ordinance, ROH Section 22-3.11 shall apply.
- B. For construction, erection, enlargement, or alteration of any building or structure in violation of this ordinance, ROH Chapter 16, Article 10, shall apply.
- C. For grading in violation of this ordinance, ROH Chapter 14, Article 16, shall apply.
- D. For any other violation of this ordinance, ROH Sections 21-2.150, 21-2.150-1, and 21-2.150-2 shall apply.

SECTION 5. Severability.

The invalidity of any word, section, clause, paragraph, sentence, part or portion of this ordinance shall not affect the validity of any other part of this ordinance which can be given effect without such invalid part or parts.

SECTION 6. Effective Date.

This ordinance shall take effect upon the last to occur of:

- 1) Enactment of this ordinance; or



CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL 86 (2006), CD1

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- 2) Selection by the council of a fixed guideway system, its alignment, and approximate station locations as the LPA for the HHCTC Project.

INTRODUCED BY:

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DATE OF INTRODUCTION:

November 29, 2006
Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, _____.

MUFU HANNEMANN, Mayor
City and County of Honolulu